

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS  
OF SAN BERNARDINO COUNTY, CALIFORNIA  
AND RECORD OF ACTION**

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**November 23, 2004**

**FROM: PATRICK J. MEAD**, Director  
Department of Public Works – **Flood Control**

**SUBJECT: AMENDMENT NO. 2 TO SETTLEMENT AGREEMENT FOR  
INCORPORATION DEBT WITH TOWN OF YUCCA VALLEY**

**RECOMMENDATION:** Acting as the governing body of the County and of the Flood Control District (District), approve Amendment No. 2 to Settlement Agreement dated November 23, 1999 for Incorporation Debt with Town of Yucca Valley (Town), allowing five additional years for the District to purchase land for construction of a future flood control basin within the Town's incorporated boundaries.

**BACKGROUND INFORMATION:** The County provided post-incorporation services to the Town pursuant to Government Code Section 57384. The County and Town disputed the cost of the services provided by the County and had acknowledged that the Town had not paid any of the incorporation debt.

As a way to recover the incorporation debt and to resolve the matter without litigation, the County, District and the Town agreed to settle the debt per the Settlement Agreement for Incorporation Debt. The Agreement stipulates that the Town will pay to the County a sum of \$120,042.50, which shall be used by the District for specific purposes within two years of the payment date. The County received this amount from the Town on August 20, 2000.

The District, in coordination with the Town, has been pursuing the purchase of right of way for a future flood control basin per the Town's Master Plan of Drainage, which would satisfy the terms of the agreement. Since the District experienced delays in the acquisition of the land, on August 20, 2002, the Board approved Amendment No. 1 with the Town to extend the initial agreement deadline by one year to August 20, 2003.

Due to further delays in the acquisition of land, the District anticipates a second extension on the term of the agreement. After consulting with the Town and obtaining its concurrence, the District is requesting an extension for a period of 5 years to allow for additional time to purchase the required land or give both the Town and the District the flexibility to expend the funds on another project. Approval of this item would extend the period for the expenditure of the \$120,042.50 to August 20, 2008. All other terms and conditions of the Agreement shall remain unchanged.

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Record of Action of the Board of Supervisors

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DEBT WITH TOWN OF YUCCA VALLEY**

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**REVIEW AND APPROVAL BY OTHERS:** This item was reviewed by Deputy County Counsel Charles S. Scolastico, 387-5481 on November 9, 2004 and by the County Administrative Office (Tom Forster, Administrative Analyst, 387-4635) on November 10, 2004.

**FINANCIAL IMPACT:** The approval of this Amendment has no financial impact. The \$120,042.50 received from the Town has been set aside in a separate District fund (RFW) that was specifically created for the recommended purpose. This fund, which earns interest, currently has a cash balance of \$138,415.93.

**SUPERVISORIAL DISTRICT(S):** 3<sup>rd</sup>

**PRESENTER:** Patrick J. Mead, 387-7906

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